



**MULTISTATE TAX COMMISSION**

**MINUTES**

Income & Franchise Tax Uniformity Subcommittee Meeting  
Via Teleconference  
Tuesday, January 31, 2012  
3:30 Eastern Time

<b>Name of Attendee</b>	<b>Affiliation</b>	<b>Name of Attendee</b>	<b>Affiliation</b>
Richard Cram	Kansas	Wood Miller	Missouri
Associates	Minnesota	Amy Hamilton	State Tax Notes
Michael Mason	Alabama	Myles Vosberg	North Dakota
		Mary Loftsgard	
		Dee Wald and Associates	
Ben Miller	California FTB	Stewart Binke	Michigan
Bradley Heller	California		
Jennifer Hays	Kentucky	Nancy Prosser	Texas
	Oregon		
Mike Fatale	Massachusetts	Phil Horwitz	Colorado
Randy Tilley	Idaho	Diann Smith	Southerland
Todd Lars	COST	Robyn Wilson	Alaska
Rebecca Abbo	New Mexico	Terry Frederick	Sprint
Louie Gomez			
Randy Tilley	Idaho	Dave Clark	ABA Tax
Shirley Sicilian	MTC	Terry Fredrick	Sprint
Roxanne Bland			
Bruce Fort			
Associates	Microsoft	Gary Humphrey	Oregon
Associates	Wisconsin	Irene Share	AIACPA
Associates	South Dakota		

Wood Miller, Chair of the Uniformity Committee, welcomed everyone and opened the public comment session. He turned the proceedings over to Robyn Wilson, Chair of the Income and Franchise Tax Uniformity Subcommittee. Ms. Wilson asked Shirley

Sicilian, MTC General Counsel, to brief the subcommittee on the issue: Multistate Tax Compact Article IV Amendments, including §§ 17, 1(g), and 9.

Ms. Sicilian first noted that the document under discussion is available to everyone over the web and we can revise the document “live.” She then drew the subcommittee’s attention to her memorandum of January 20, 2012, which covers clarifications to the proposed Art.IV.17(a)(4) and (5) and technical amendments to clarify use of the term “sales” throughout Art.IV.

Diann Smith of Sutherland, made three points: (1) sourcing receipts from marketing intangibles to the location of the ultimate consumer (the “look through” for intangibles like trademarks, or cartoon characters, that are used to market a product, like a towel or hat) is a bad idea because it does not reflect the taxpayer’s market in theory (rather it reflects the taxpayer’s customer’s market), and the taxpayer won’t know where that ultimate consumer is in practice; (2) the “if and to the extent” language is vague and confusing to people who have not been involved in the discussions and know what we mean, and (3) it’s not clear what “use” means for those intangibles receipts that are to be sourced to where the intangible is “used.” In general, she thought this version was not much clearer than the last.

Subcommittee members thanked Ms. Smith. Some expressed intent to develop regulatory language that would help to illuminate these issues.

Ben Miller and Wood Miller expressed opinions that the new draft was clearer. Mary Loftsgard moved to recommend the draft (attachment B of the memo) to the full Uniformity Committee. The motion passed, 15-0.

Ben Miller then spoke in favor of technical amendments throughout Art.IV to distinguish between the two ways that the word “sales” is used. These were also provided in Ms. Sicilian’s memorandum.

The Subcommittee discussed the issue and determined it would like to consider it further. The Chair asked that this issue be placed on the next teleconference agenda.

The Income and Franchise Tax Uniformity Subcommittee adjourned.